

Erick J. Haynie, OSB No. 982482
EHaynie@perkinscoie.com
Christopher W. Rich, OSB No. 990954
CRich@perkinscoie.com
Megan K. Houlihan, OSB No. 161273
MHoulihan@perkinscoie.com
PERKINS COIE LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Telephone: +1.503.727.2000

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**PORLAND GENERAL ELECTRIC
COMPANY**, an Oregon corporation;

Plaintiff,

v.

STATE OF OREGON, by and through **THE
OREGON DEPARTMENT OF STATE
LANDS** and +/- **FIVE ACRES OF
UNIMPROVED LAND ALONG THE
WILLAMETTE RIVER NEAR WEST
LINN, OREGON**;

Defendants,

and

**CONFEDERATED TRIBES OF THE
GRAND RONDE COMMUNITY OF
OREGON**, a federally-recognized Indian
tribe,

Intervenor-Defendant.

Case No. 3:22-cv-00533-SI

JOINT STATUS REPORT

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Pursuant to the Court’s Trial Management Order (ECF 64) (the “TMO”), Plaintiff Portland General Electric Company (“PGE”) and Intervenor-Defendant Confederated Tribes of the Grand Ronde Community of Oregon (“Grand Ronde”) respectfully submit this joint status report. PGE and Grand Ronde are unclear on the position of the State of Oregon, Department of State Lands (“DSL”) as to this report.

DISCUSSION

I. Exhibits

A. Exhibit Stipulations

PGE and Grand Ronde stipulate to the admission of the following trial exhibits (“TX”) by judicial notice:

TX 11, 12, 16 (as amended), 17, 22, 30, 31, 32, 33, 36, 49, 55, 56, 203, 204, 221 236, 237, 238, 239, 240, 249 and 250.

Grand Ronde additionally stipulates to the authenticity of the following PGE trial exhibits, reserving relevance, hearsay and argument: 1-8, 15, 19, 23-28, 37, 40-43, 45-48, 54 and 72.

PGE stipulates to the admissibility of the following Grand Ronde trial exhibits: 201-202, 205-209, 211-213, 216-220, 222-235, 252-254, 257-259, 263, 265, 266 (as amended), 267, 269-271, 273-274, 276, 278, 279 (as amended), 282-285, 287, 289-290, and 293-295.

B. Exhibit Objections

Grand Ronde’s objections to PGE’s trial exhibits, as set forth in ECF 120 and 123, remain unresolved. Additionally, Grand Ronde filed evidentiary objections to PGE’s rebuttal exhibits (TX 60-72) today, as set forth in ECF 133.

PGE’s objections to Grand Ronde Exhibits, as set forth in ECF 124, remain unresolved. Additionally, PGE has reserved potential evidentiary objections to Grand Ronde’s proposed rebuttal TX 296, identified in Grand Ronde’s proposed Amended Exhibit List accompanying its

Motion for Leave to Amend Exhibit and Witness Lists (the “Motion for Leave”). PGE has no procedural objection to the Motion for Leave, which the Court has now granted (ECF 137).

II. Deposition Excerpts.

Grand Ronde objects to PGE’s proffered deposition excerpts of former PGE employee Mini Sharma-Ogle (ECF 115-3). PGE has to date been unable to confirm Ms. Sharma-Ogle’s availability to appear as a witness at trial. PGE will be prepared to discuss this item further at the pretrial conference. The parties may require the Court’s assistance in determining whether Ms. Sharma-Ogle’s deposition transcript may be read or otherwise presented at trial.

Additionally, Grand Ronde has raised objections to PGE’s cross-designations to the deposition excerpts designated by Grand Ronde (ECF 122). Grand Ronde’s objection filed at ECF 134, disputed by PGE, relates to the application of the “rule of completeness”. The parties anticipate further conferral on this issue and will be prepared to discuss further at the pretrial conference.

III. Witness objections.

PGE and Grand Ronde are not in agreement as to either the witness objections filed by Grand Ronde (ECF 120 and ECF 133), or the witness objections filed by PGE (ECF 124). PGE and Grand Ronde request judicial assistance in resolving these objections.

IV. Motions *in limine*.

PGE and Grand Ronde are not in agreement as to Grand Ronde’s motion to exclude portions of the trial testimony of Rodney L. Brown, as set forth in Grand Ronde’s motion *in limine* (ECF 119). PGE and Grand Ronde request judicial assistance in resolving that motion.

V. Legal Description.

PGE and DSL continue to confer a potential stipulation concerning a potential amendment to the legal description for the condemnation property at issue in this action.

VI. Site Visit.

During the hearing on the parties’ cross motions for summary judgment, the Court

indicated a desire to conduct a site visit. The parties are not necessarily in agreement as to the conditions and timing of such a visit and are prepared to discuss at the pretrial conference.

VII. Stipulations and Definitions.

PGE and Grand Ronde stipulate to the following terms and definitions:

Portland General Electric Company	PGE
State of Oregon	State
Oregon Department of State Lands	DSL
Confederated Tribes of the Grand Ronde Community of Oregon	CTGR or Grand Ronde
Federal Energy Regulatory Commission	FERC
08/31/18 Waterway Structure Authorization APP0059537-RG	Registration
2016 Special Use Application Form with attachments	SUA
Area depicted in Exhibit B to PGE's Complaint	Platform Area
Perpetual Cultural Practices Easement	PCPE
Federal Power Act	FPA
Confederated Tribes of the Warm Springs	Warm Springs
Confederated Tribes of Siletz Indians	Siletz
Confederated Tribes of the Umatilla Indian Reservation	Umatilla
Yakama Nation	Yakama
Willamette Falls	Falls
+/- Five acres of unimproved land along the Willamette River near West Linn, Oregon as named in the Complaint	Condemnation Property
OAR 635-041-0610	Ceremonial Fishing Rule

Additionally, PGE and Grand Ronde stipulate to the following facts:

1. PGE has operated a hydroelectric generation project ("Project") on the Willamette River at Willamette Falls for more than 100 years. The Project was first licensed under the Federal Power Act in 1960. Portland Gen. Elec. Co., 23 F.P.C. 831, 1960 WL 4393 (1960). The Project was issued a new license from FERC in 2005. Portland Gen. Elec. Co., 113 FERC ¶ 62186, 2005 WL 3437674 (2005).

2. Willamette Falls has been an important economic and cultural gathering place for Native American tribes to fish and harvest Pacific lamprey since long before the formation of the United States and Oregon statehood.

3. On August 31, 2018, DSL issued Grand Ronde a Registration authorizing Grand Ronde to place a temporary fishing platform in the Platform Area.

4. The Platform Area is included within the Condemnation Property and the project boundary. Portions of the Condemnation Property are also located outside of the project boundary.

5. Other federally recognized Native American tribes in the area expressed concerns about the Registration issued by DSL to Grand Ronde.

6. PGE and other tribes appealed DSL's issuance of the Registration to the State Office of Administrative Appeals. That appeal has been stayed.

7. On April 16, 2021, PGE filed a Non-Project Use of Project Lands Application with FERC requesting approval to allow PGE to grant a PCPE to any federally recognized tribe asserting cultural ties to the Condemnation Property.

8. PGE management requested its Board of Directors authorize condemnation of the Condemnation Property.

9. On July 28, 2021, PGE's Board of Directors issued a resolution (TX 42) reciting that "the Board hereby finds and declares that in order to maintain compliance with the FERC License, the safe and efficient operation of the Project, and for public necessity, it is necessary that the Company have fee title to the Disputed Property substantially as depicted in Exhibit A hereto" and authorizing PGE to seek condemnation of the Condemnation Property.

10. PGE offered DSL \$150,000 for the Condemnation Property.

11. DSL declined but proposed a lease of the Condemnation Property. DSL did not agree to PGE's proposed lease terms.

12. On April 8, 2022, PGE filed its Complaint in this action, asserting eminent domain as to the Condemnation Property through the Federal Power Act.

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DATED: March 25, 2025

PERKINS COIE LLP

By: /s/ Erick J. Haynie

Erick J. Haynie, OSB No. 982482
EHaynie@perkinscoie.com
Christopher W. Rich, OSB No. 990954
CRich@perkinscoie.com
Megan K. Houlihan, OSB No. 161273
MHoulihan@perkinscoie.com
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Telephone: +1.503.727.2000

Attorneys for Plaintiff

DATED: March 25, 2025

**CONFEDERATED TRIBES OF THE
GRAND RONDE COMMUNITY OF
OREGON**

By: /s/ Kimberly S. D'Aquila

Kimberly S. D'Aquila, OSB #962557
kim.daquila@grandronde.org
Richard Roos-Collins, Cal. Bar #123231,
Admitted pro hac vice
rrcollins@waterpowerlaw.com

Attorneys for Intervenor-Defendant